**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GORDON ROY PARKER, Plaintiff, vs. LEARN THE SKILLS CORP., ET AL. Defendants.	:	Civil Action Case No. 05-cv-2752

**DEFENDANT LEARN THE SKILLS CORP.'S
MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO DISMISS**

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I. PROCEDURAL HISTORY

On December 30, 2003, *pro se* Plaintiff Gordon Roy Parker filed an action against pro se Defendant Geiger, Defendant Learn The Skills Corporation ("LTSC"), and one-hundred anonymous defendants. That Amended Complaint sought relief under theories of Libel, Trade Libel, Invasion of Privacy, Copyright Infringement, Unfair Competition, Unjust Enrichment, Tortious Interference and Civil Conspiracy, and for Federal Lanham Act and RICO Violations. That case was filed in this Court under civil case number 03-6936 and is referred to as "Parker I".

The Amended Complaint in Parker I was met with several motions by several parties, including a motion by defendant Geiger seeking a more definite statement. Ultimately, the Court only ruled on Geiger's motion which dismissed the Amended Complaint and required the Plaintiff to file any second amended Complaint within 30 days. Defendant filed a second Amended Complaint in Parker I which was subsequently dismissed by the Court as well.

Plaintiff then filed a new lawsuit June 9, 2005, 6 months after civil case 03-6936 was dismissed. Said lawsuit, the current case, is referred to as "Parker II".

Defendant LTSC sought to dismiss that lawsuit, as well as to oppose Plaintiff's motion for default judgment, by filing a motion to dismiss. The motion for default was withdrawn and the Plaintiff subsequently filed an Amended Complaint. The Court ruled that the motions to dismiss filed by various defendants were moot. To date, defendant LTSC has filed numerous motions in Parker I and Parker II, none of which this court has ruled on by considering the merits.

It should be noted that nothing in the Amended Complaint would add, change, or otherwise affect the defense put forward by defendant LTSC that it is not subject to this Court's jurisdiction. As such, defendant LTSC implores this Court to rule on the merits of this motion as to the jurisdictional issue.

II. FACTS

Plaintiff alleges a criminal conspiracy by the "seduction mafia" against him. LTSC is among the alleged conspirators, along with an e-mail address. Plaintiff alleges causes of action against LTSC entitled "Racketeering Against All Named Defendants" (Count I), "Civil Conspiracy Against All Named Defendants" (Count II), "Tortious Interference Against Defendants LTSC/Formhandle" (Count III), "Injurious Falsehood Against Defendants Geiger, Ross, and LTSC/Formhandle" (Count VI), "Lanham Act Violations (Defendants Formhandle/LTSC" (Count VII), "Invasion of Privacy Against Defendants Ross, Geiger and LTSC" (Count XI).

III. LAW/ARGUMENT

A. THE COURT SHOULD DISMISS DEFENDANT LTSC BECAUSE THERE IS NO PERSONAL JURISDICTION

Defendant LTSC respectfully pleads with the Court to make a ruling on whether this Court has jurisdiction over LTSC so that once and for all the Plaintiff will not be able to endlessly torture LTSC and drag it into Court in this forum. The Plaintiff's repeated frivolous lawsuits are vexatious and an abusive nuisance. A ruling regarding jurisdiction would preserve the judiciary's resources by preventing the Plaintiff from further lawsuits unless he will willingly subject himself to Rule 11 sanctions (a course of action the Plaintiff intends to pursue at the favorable conclusion of this lawsuit).

Defendant LTSC once again incorporates by reference herein and adopts completely the concise legal arguments set forth in the second Motion to Dismiss filed by Defendant Paul Ross through counsel Mary Kay Brown, Esquire, of Buchanan Ingersoll on November 14, 2005, section III (A). This is an excellent recitation of the legal standard for personal jurisdiction with an emphasis on internet and email activity. The only aspect of the argument which was mentioned that should be emphasized is that the Plaintiff bears the burden of showing facts to support jurisdiction by a preponderance of the evidence.

LTSC need not necessarily come forward with an affidavit regarding its activities, or lack thereof, in or related to the Commonwealth of Pennsylvania. Indeed, any affidavit would then reveal the identities of people who would expose themselves to the vexatious litigation tactics of the Plaintiff who has stooped so low as to file a lawsuit against counsel for LTSC. Surely, this Plaintiff, who has an established track record of clearly frivolous litigation, would certainly hunt down any person who would dare challenge him and he would file a frivolous lawsuit against them. These are his demonstrated proclivities. As such, in challenging this Court's jurisdiction, defendant LTSC relies solely upon the inability of the Plaintiff to show a factual basis for jurisdiction knowing that there are no such facts, based upon the fear of reprisal should LTSC put forward an affidavit.

Plaintiff sets forth the basis for jurisdiction against LTSC in paragraph 13 of the Amended Complaint. Regardless of whether this is plead well or not, Plaintiff cannot come up with sufficient facts to justify this Court's jurisdiction over defendant LTSC.

In paragraph 13, the plaintiff fails to assert sufficient facts to justify jurisdiction.

First, he alleges that solicitation of donations "all over the world, including in the Commonwealth of Pennsylvania and Philadelphia" might justify jurisdiction. This is completely frivolous. Assuming the allegations to be true, worldwide solicitations do not even hint at suggesting a "purposeful availment".

Second, Plaintiff refers to a "100 mile bulge". This is nothing short of nonsense. The so-called "100 mile bulge" refers to Fed.R.Civ.P. 45 and subpoenas for witnesses. It has nothing to do with personal jurisdiction.

Third, again assuming that LTSC receives donations via "Paypal", and further assuming that the allegation is true that LTSC does not have any way of knowing whether donors are from Pennsylvania, then this too falls short of showing "purposeful availment".

The fact of the matter is that the Plaintiff will never be able to allege any facts that show that LTSC directed any effort or targeted marketing, solicitations or activity toward this jurisdiction. LTSC would never have any reason to expect that it would be subject to this court's jurisdiction because it has nothing to do with Pennsylvania, other than the fact that it is being harassed by a resident of the Commonwealth of Pennsylvania and this will not serve to provide a basis for jurisdication.

B. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED

Federal Rule of Civil Procedure 12(b)(6) permits a court to dismiss all or part of an action for "failure to state a claim upon which relief can be granted." Fed.R.Civ.P. 12(b)(6). In ruling on a 12(b)(6) motion, the Court must accept as true all well-pleaded allegations of fact, and any reasonable inferences that may be drawn therefrom, in plaintiff's complaint and must determine whether "under any reasonable reading of the pleadings, the plaintiff may be entitled to relief." Nami v. Fauver, 82 F.3d 63, 65 (3rd Cir. 1996) (citations omitted). In evaluating plaintiff's pleadings, the Court should not credit any "bald assertions." In re Burlington Coat Factory Sec. Litig., 114 F.3d 1410, 1429 (3rd Cir. 1997). Nor should the Court accept as true legal conclusions or unwarranted factual inferences. Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 2 L.Ed.2d 80 (1957). "The complaint will be deemed to have alleged sufficient facts if it adequately put the defendant on notice of the essential elements of the plaintiff's cause of action." Nami, 82 F.3d at 65. A Rule 12(b)(6) motion is proper only if the plaintiff "can prove no set of facts in support of his claim which would entitle him to relief." Conley, 355 U.S. at 45-46.

At the outset, it should be noted that this is the fifth complaint filed by the Plaintiff against defendant LTSC. The first was filed in the matter of Parker I. This was amended by the Plaintiff and the amended complaint was the subject of the Court's memorandum and order dated October 25, 2004. Plaintiff's Amended Complaint was dismissed by the Court for failure to conform with Fed.R.Civ.P. 8(a). Plaintiff was given a month to come up with a more concise statement in support of his claims. At the time, defendant LTSC had two motions pending which were dismiss as moot on account of the Rule 8(a) dismissal. A copy of the Court's order and memorandum are attached hereto for the Court's convenience.

Plaintiff timely filed a third amended complaint, however, by order dated December 3, 2004, the Court dismissed that complaint without prejudice on the following basis:

> Beyond the first glance, however, it is the lack of any cogent or plain statement that dooms Plaintiff's Second Amended Complaint. For each of the individual Counts, Plaintiff states conclusory legal elements or cross-references a laundry list of allegedly offensive comments without tying the two together in a decipherable way. Only super-human patience would allow defendants to discern the relevance of each alleged fact to their potential defense. Despite the complexity of Plaintiff's claims, Plaintiff must give the defendants in this matter notice and the ability to properly respond to the claims brought against them. Plaintiff has failed to conform his amended pleading to the demands of Rule 8(a)(2) as instructed by this Court's October 25, 2004, Memorandum and Order. See Footnote 1.

A copy of the Court's December 3, 2004, order is attached hereto for the Court's convenience.

According to the Court's October 25th Memorandum, the Plaintiff's First Amended Complaint was 80 pages with 320 paragraphs. The Court's December 3rd order dismissing the Second Amended Complaint notes the potential for improvement on the part the Plaintiff:

> At first glance, Plaintiff has improved upon the eighty page First Amended Complaint (Doc. No. 2). In Plaintiff's Second Amended Complaint, he was able to omit twenty-eight pages and over ninety-eight anonymous defendants. Plaintiff was also able to label individual claims for relief against just two defendants.

The Plaintiff's Second Amended Complaint was 52 pages with 195 paragraphs and that was deemed to be excessive and requiring "super human patience". Even though this was an improvement, the Court dismissed the Second Amended Complaint.

Out of a total lack of respect for the authority of the Court - and in complete disregard for the rights of the litigants - the Plaintiff has filed the Complaint in the current matter which resulted in motions to dismiss. The Plaintiff has filed the current Amended Complaint which weighs in at a hefty 75 pages, 259 numbered paragraphs, with both single-spaced and double-spaced paragraphs, as well as page after page of subparagraphs. While the last lawsuit was dismissed without prejudice, it was precisely because the pleading was voluminously incomprehensible that it was dismissed. The current Amended Complaint contemptuously ignores the Court's previous rulings.

Fed.R.Civ.P. 8(a)(2) requires a complaint to include "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed.R.Civ.P. 8(a)(2); accord Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U .S. 163, 168 (1993). Plaintiff is "required to 'set forth sufficient information to outline the elements of his claim or to permit inferences to be drawn that these elements exist.' " Kost v. Kozakiewicz, 1 F.3d 176, 183 (3rd Cir.1993) (quoting 5A Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 1357, at 340 (2d ed.1990)). The Court "must determine whether, under any reasonable reading of the pleadings, the plaintiff[ ] may be entitled to relief, and ... must accept as true the factual allegations in the complaint and all reasonable inferences that can be drawn therefrom." Nami, supra, at 65 (citing Holder v. Allentown, 987 F.2d 188, 194 (3rd Cir. 1993)); Eli Lily & Co. v. Roussel Corp., 23 F. Supp.2d 460, 474 (D. N.J. 1998) (citing Nami and Holder).

A *pro se* complaint is held to less stringent standards than formal pleadings drafted by lawyers. Estelle v. Gamble, 429 U.S. 97, 106 (1976); Haines v. Kerner, 404 U.S. 519, 520 (1972); Then v. Quarantino, 208 F.3d 206 (3rd Cir. 2000). "Under our liberal pleading rules, during the initial stage of litigation, a district court should construe all allegations in a complaint in favor of the complainant" and give "credit to the allegations of the complaint as they appear[ ] in the complaint." Gibbs v. Roman, 116 F.3d 83, 86 (3rd Cir. 1997); see also Kulwicki v. Dawson, 969 F.2d 1454, 1462 (3rd Cir. 1992). But, as noted above, a court need not credit a complaint's "bald assertions" or "legal conclusions" when deciding whether dismissal is appropriate. Morse v. Lower Merion Sch. Dist., 132 F.3d 902, 906 (3rd Cir. 1997); see also Fernandez-Montes v. Allied Pilots Ass'n, 987 F.2d 278, 284 (5th Cir. 1993) ("[C]onclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss."). "When it appears beyond doubt that no relief could be granted under any set of facts which could be proved consistent with the allegations of the complaint, a dismissal pursuant to Rule 12(b)(6) is proper." Robinson v. Fauver, 932 F.Supp. 639, 642 (D. N.J. 1996) (citing Conley v. Gibson, 355 U.S. 41, 45-46 (1957)).

The problem with the Plaintiff's Amended Complaint is that he leaps from insults against him to the legal conclusion that there is a cause of action that he can assert in a court of law. Based on the assumption that any of what the Plaintiff alleges makes any sense, it appears that he is alleging that there is a criminal conspiracy against him which underlies his civil racketeering claim and other claims. As to all of the claims against all of the parties (a statement which Plaintiff will allege is in furtherance of this conspiracy) it only appears that everything he alleges amounts to the following: That there is protected free speech in where people may be resorting to hyperbole in criticizing the Plaintiff. Insults, however, no matter how base, cannot form the basis for the claims that the Plaintiff has asserted in the case at bar.

The sum and substance of the current complaint is that the Plaintiff extracts from insults in cyberspace an inference that he has legal claims against the people who are involved in any way with making those statements. This is the kind of bald conclusory allegation which deserves no substantive credit. For instance, in paragraph 65(x) on page 22 of the Amended Complaint, Plaintiff claims:

> 65. Like Defendant Ross, Defendants Formhandle/LTSC made numerous statements themselves which were relevant to this action, including:
>
> x. "You are not a [business] competitor. You are, however, an annoying fuckwit and a poo-poo head." (November 19, 2004 to ASF).

This is a typical kind of statement found in the Plaintiff's Complaint. The Plaintiff was called an "annoying fuckwit" and "poo-poo head" by someone in cyberspace (which is only assumed to be true because that is required by the standard for a Rule 12(b)(6) motion) which is shameful, immature, childish, socially inexcusable, impolite, and inappropriate. No one deserves to be insulted in this manner. But these kinds of insults cannot form the basis for a lawsuit under any of the causes of action asserted by Plaintiff.

IV. CONCLUSION

Defendant Learn the Skills Corp. prays and requests that the Court will dismiss with prejudice the Amended Complaint as to Learn the Skills Corp. on the basis that the Court does not have personal jurisdiction - either general or specific - over Learn the Skills Corp.

In the event that Plaintiff is able to satisfy the burden of showing that the Court does have personal jurisdiction over Learn the Skills Corp., then the Court should, in the alternative, dismiss the Complaint as to it because the Plaintiff has repeatedly failed to reduce his claims to comprehensible claims and that giving the claims the most interpretational leniency possible, the Counts of the Complaint against Learn the Skills Corp. fail to state a claim upon which relief may be granted.

Respectfully,

/s/ Matthew S. Wolf

Matthew S. Wolf

cc: Learn the Skills Corp.
Mary Kay Brown, Esquire
Dennis G. Young, Jr., Esquire
Gordon Roy Parker, *pro se*